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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/781,233 | 02/18/2004 | Mike Nipke | 15554US01 | 2367 |

7590 10/28/2004

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| EXAMINER |
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YIP, WINNIE S

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| ART UNIT | PAPER NUMBER |
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3637

DATE MAILED: 10/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/781,233

Applicant(s)

NIPKE, MIKE

Examiner

Winnie Yip

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date April 14, 2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

This is a first office action for application Serial No. 10/781,223 filed February 18, 2004.

Drawings

1. The drawings are objected to under 37 CFR 1.84(h)(1) because of the exploded view, i.e. Fig. 3B, with the separated parts within the same figure, should be embraced by a bracket in order to show the relationship or order of assembly of various parts. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claims 2, 4, and 7 are objected to because of the following informalities: the recited features "is movably/fixedly connected to the undercanopy" (claims 2 and 4) and "fixedly

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secured to at least a portion of at least one of the undercanopy” fail to recite the claimed elements, the first member and the attachment portion of the fastening device, positively related to “the undercanopy” which is not positively and previously recited. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 9 and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Rushing (US Patent No. 5,053,931).

Rushing shows and teaches an umbrella being assembled, the umbrella comprising a pole portion (16), a canopy portion (30) inherently having an undercanopy portion, a plurality of canopy ribs (28) coupled to the undercanopy portion, a plurality of support ribs (no number) coupled to the pole portions and the respective canopy ribs, the canopy portion (30) being removably coupled to the canopy ribs, a reclosable fastening system including a plurality of plastic zip tie (32) coupled to canopy ribs to the undercanopy portion, and a lighting system which includes a plurality of wired lights (14) being removably secured to the undercanopy by the plastic zip ties.

5. Claims 1-2, 4, 6-11, and 13-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Wu (US Patent No. 6,126,293).

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Wu shows and teaches an umbrella being assembled, the umbrella comprising a pole portion (1), a canopy portion (5) inherently having an undercanopy portion (52), a plurality of canopy ribs (46) coupled to the undercanopy portion by reclosable ties, a plurality of support ribs (2) coupled to the pole portions and the respective canopy ribs, a reclosable fastening system including a fastening device, the fastening device including a first member being a tip sleeve (322) and a second member being a tip holder (321), the tip holder (321) being movably secured to canopy ribs (24), and a lighting system which includes a tip illuminator (32) being removably secured to the tip holder, and the tip sleeve removably engaged to the tip holder by a clip (321L) in a reclosable manner, and the tip sleeve removable secured to the undercanopy portion (52) by a fastening member (F).

6. Claims 1-4, 6-13, and 15-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Morrone (US Patent No. 5,101,844).

Morrone shows and teaches an umbrella comprising: a pole (71), canopy ribs (53), and inherently having support ribs coupled to the pole and the canopy ribs, a canopy (52) inherently having an undercanopy portion, and an undercanopy fastening system comprising: a fastening device (51) for removably securing the canopy to the canopy ribs, the fastening device (51) including a first and second members (33) having a first and second portions of a fastening device respectively, the first portion being holes (65) and the second portion being pins (64) being removably engaged with respect to each another, wherein one of the first and the second member (63) includes an attachment portion fixedly attached to the undercanopy portion (52) and the other one of the first and second member having a bending portion (62) to removably

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secure the first member bend over and engaged with the second member of the fastening device for removably securing the undercanopy portion (27) to the supporting ribs (53) in an enclosable manner.

7. Claims 1-2, 4-5, 7-13, and 15-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Sadowski et al. (US Patent No. 4,979,535)

Sadowski et al. shows and teaches an umbrella comprising: a pole (12), canopy ribs (16), support ribs (20), a canopy (22) inherently having an undercanopy portion (22a), and an reclosable fastening system comprising: a first fastening device (34) for removably securing the canopy to the canopy ribs, the fastening device (34) including a first member having a first portion (36) movable connected to the canopy rib and to the undercanopy portion, a second member (23) having a second portion (25), the second portion (25) having a bending portion to receive a ring (24) therein, and an attachment portion fixedly secured to the undercanopy portion by stitching, wherein the ring (24) of the first member is removably engaged with a slot of the second member for removably coupling the undercanopy portion to the canopy ribs when the fastening device in a reclosable manner.

Regard to claims 5 and 15, Sadowski et al. also teach the umbrella comprising the reclosable fastening system further including a second fastening device (28) comprising a Velcro strip (30) including a first member having a first Velcro pad (32) fixedly to the undercanopy portion, and a second member having a second Velcro pad (32) and a bending portion being moved to engage with the first member for removably coupling the canopy rib (16) to the undercanopy portion (22a).

8. Claims 1-5 and 7-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Eppenbach (US Patent No. 4,491,141).

Eppenbach shows and teaches an undercanopy fastening system comprising : a canopy (17) having a undercanopy portion (27), a fastening device including a first member (47) having a first portion of a fastening device, a second member (43) having a second portion of the fastening device, wherein the second member (43) includes an attachment portion fixedly attached to the undercanopy portion and a female snap (45), the first member (47) includes a bending portion and a male snap (49) to removably engaged with the female snap (45) in a reclosable manner for removably securing the undercanopy portion (27) to a support assembly (51).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rushing '931 or Sadowski et al. '535 as applied to claim 9 above, and further in view of Eppenbach '141.

The claims are considered to be met by Rushing '931 or Sadowski et al. as explained and applied above rejection except that Rushing '931' and Sadowski et al. do not define the fastening device comprising two members having opposing female and male snaps. Eppenbach teaches a

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fastening device for removably connecting a canopy support rib (51) to an undercanopy portion (27) as explained and applied above rejection, the fastening device comprising the first member (47) having a bending portion and a female snap (49), and a second member (43) having an opposing male snap (45) being removably engaged with the female snap (49) for removably engaging the canopy rib (51) to the undercanopy portion. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the umbrella of Rushing or Sadowski et al. having fastening device having first and second members having opposing female and male snaps being removably engaged together as taught by Eppenbach as an obvious matter of design choice of fastening devices for easily and removably coupling the canopy to the supporting ribs.

Citations

II. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Morgan '614, Pan et al. '249, Mai '230, UK Patent No. 2,222,942 teaches an umbrella having lighting system secured thereto. Cox et al. '154 and Greywall '914 teach various umbrellas having removable fastening system attached to an undercanopy portion.

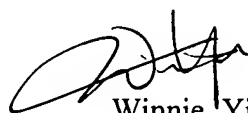
Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Winnie Yip
Primary Examiner
Art Unit 3637

wsy
October 22, 2004